

Bill No. 39-12  
Concerning: Technical Corrections  
Revised: 2/5/2013 Draft No. 6  
Introduced: December 4, 2012  
Enacted: February 5, 2013  
Executive: February 12, 2013  
Effective: May 14, 2013  
Sunset Date: None  
Ch. 4, Laws of Mont. Co. 2013

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: County Council

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**AN ACT** to correct technical, typographical, grammatical, reference, and codification errors in, and make stylistic, clarifying, and conforming amendments to, various provisions of County law.

By amending

Montgomery County Code  
Chapter 1, General Provisions  
Sections 1-18 and 1-203

Chapter 1A, Structure of County Government  
Sections 1A-101, 1A-102, 1A-105, 1A-108, 1A-109, 1A-204

Chapter 2, Administration  
Sections 2-42A, 2-76, 2-128, and 2-140

Chapter 19, Erosion, Sediment Control and Storm Water Management  
Sections 19-21 and 19-22

Chapter 19A, Ethics  
Sections 19A-17 and 19A-32

Chapter 20, Finance  
Section 20-32

Chapter 22, Fire Safety Code  
Sections 22-3 and 22-37

Chapter 22A, Forest Conservation – Trees  
Section 22A-3

**Clerk's Note:** A correction was made to reflect Council action to change “employee in” to “officer holding a position designated by law as” on page 9, lines 181-182.

Chapter 24A, Historic Resources Preservation  
Section 24A-9

Chapter 29, Landlord-Tenant Relations  
Section 29-47

Chapter 33, Personnel and Human Resources  
Sections 33-35, 33-37, 33-42, 33-42A, 33-59, 33-120, and 33-128

Chapter 42, Revenue Authority  
Section 42-28

Chapter 44, Schools and Camps  
Section 44-3

Chapter 49, Streets and Roads  
Section 49-33

Chapter 51, Swimming Pools  
Sections 51-1 and 51-16A

Chapter 52, Taxation  
Section 52-11A, 52-18Q, 52-21, and 52-53

1992 Laws of Montgomery County, Chapter 4  
Section 3

2011 Laws of Montgomery County, Chapter 1  
Section 2

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
<b>[Single boldface brackets]</b>	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
<b>[[Double boldface brackets]]</b>	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

Sec. 1. Sections 1-18, 1-203, 1A-101, 1A-102, 1A-105, 1A-108, 1A-109, 1A-204, 2-42A, 2-76, 2-128, 2-140, 19-21, 19-22, 19A-17, 19A-32, 20-32, 22-3, 22-37, 22A-3, 24A-9, 29-47, 33-35, 33-37, 33-42, 33-42A, 33-59, 33-120, 33-128, 42-28, 44-3, 49-33, 51-1, 51-16A, 52-11A, 52-18Q, 52-21, and 52-53 are amended as follows:

**1-18. Enforcement procedures.**

(a) *Definitions.* In Sections 1-18, 1-19 and 1-20:

\* \* \*

(2) County law means any provision of:

\* \* \*

(C) [an] a law, ordinance, or subdivision [regulation] amendment enacted under [the Regional District Act] Division II of the Land Use Article of the Maryland Code;

\* \* \*

**1-203. Applicability of County legislation [within municipal corporations] in municipalities.**

\* \* \*

(e) *Categories of County legislation applicable [within municipal corporations] in municipalities.*

\* \* \*

(2) Notwithstanding subsections (c)(2) and (c)(3) [of this section], the following categories of County legislation, if otherwise within the scope of legislative powers granted to the County by the General Assembly, shall nevertheless apply [within the boundaries of] in all [municipal corporations] municipalities in the County:

\* \* \*

(B) County revenue or tax legislation, subject to [the provisions of] the Tax-Property Article [or Article 81, Annotated Code of Maryland 1957, as amended] of the Maryland Code.

**1A-101. Scope of article.**

\* \* \*

(c) List of appointed officials.

\* \* \*

(4) [Staff Director of the County Council] Council administrator (optional).

\* \* \*

**1A-102. Process for appointing and confirming officials.**

\* \* \*

(d) [*Staff Director of the*] Council Administrator.

(1) There is a position of [Staff Director] Council Administrator.  
The Council may appoint someone to fill this position.

(2) The [Staff Director] Council Administrator must be a professionally qualified administrator.

(3) The [Staff Director] Council Administrator is not a merit system employee.

(4) An appointment must be by a majority vote of Councilmembers in office.

**1A-105. Acting officials.**

(a) *Scope.* This Section applies to acting:

\* \* \*

(5) [Staff directors of the council] Council Administrators.

\* \* \*

(f) *[Acting Staff Director of the] Council Administrator.*

(1) If the position of [Staff Director] Council Administrator is vacant, the Council may appoint an acting [Staff Director] Council Administrator.

(2) [a.] (A) If the [Staff Director] Council Administrator becomes temporarily absent or disabled, the Council may appoint an acting [Staff Director] Council Administrator.

(b.) (B) If the Council does not appoint an acting [Staff Director] Council Administrator under this paragraph, the [Staff Director] Council Administrator may appoint an acting [Staff Director] Council Administrator.

(3) An acting [Staff Director] Council Administrator, who is not a merit system employee, must be a professionally qualified administrator.

\* \* \*

(h) *Removal.*

\* \* \*

(2) The [council] Council may remove an acting [staff director] Council Administrator at any time.

# **1A-108. Salaries of Planning Board members.**

The annual salary of each member of the Planning Board, other than the member designated as the full-time member under Division II of the Land Use Article of the Maryland Code [Art. 28,] Section [2-104] 15-107, is \$24,400, in addition to any salary the member receives under Section [2-104] 15-108 as a member of the Maryland-National Capital Park and Planning Commission.

# **1A-109. Delegation of Authority; Sub-delegation.**

\* \* \*

(j) Section 1A-105 exclusively governs the appointment of an acting:

\* \* \*

(5) Council [Staff Director] Administrator.

**1A-204. Supervision of offices and appointment of heads.**

\* \* \*

(b) *Legislative Branch.*

(1) Office of the County Council.

[a.] (A) The Council appoints the [Staff Director] Council Administrator as provided for in Section 1A- 102(d), and may give direction to members of the Council's staff. In the absence of direction from the Council, officers of the Council may give directions to the Council's staff.

[b.] (B) Except for the Clerk of the Council, the [Staff Director of the County] Council Administrator or another person designated by the Council appoints and supervises all merit system employees of the Office.

[c.] (C) Under the merit system laws, the County Council appoints and removes the Clerk of the Council by a resolution approved by a majority of all councilmembers in office. The [Staff Director] Council Administrator supervises the Clerk on all matters.

(2) Office of Legislative Oversight.

[a.] (A) \* \* \*

[b.] (B) \* \* \*

[c.] (C) \* \* \*

[d.] (D) \* \* \*

[e.] (E) \* \* \*

(4) Office of Zoning and Administrative Hearings.

[A.] (A) The County Council, by a majority vote of Councilmembers in office, may appoint one or more hearing examiners of the Office of Zoning and Administrative Hearings, and designate a hearing examiner or the Council [Staff Director] Administrator as Director of the Office.

[B.] (B) \* \* \*

[C.] (C) \* \* \*

[D.] (D) \* \* \*

**2-42A. Functions, powers, and duties.**

\* \* \*

(d) Duties of the Department.

\* \* \*

(3) The Department provides staff support to:

\* \* \*

(C) the Community Action [Committee] Board;

\* \* \*

**2-76. Exercise of zoning, planning and subdivision powers.**

The procedures for the Council to exercise its powers of zoning, planning or subdividing shall be as prescribed by [the Regional District Act, article 28 of the Annotated Code of Maryland] Division II of the Land Use Article of the Maryland Code; by other applicable law enacted by the General Assembly of Maryland; by the zoning or subdivision [ordinances] laws; or otherwise as prescribed by the Council by law.

**2-128. Appointment of County Attorney as Assistant State's Attorney; powers, duties.**

\* \* \*

(b) Assistant State's Attorneys so appointed have the same powers as an Assistant State's Attorney appointed under other applicable law and must assist the State's Attorney in prosecuting violations of:

(10) any other[,] law, rule, regulation, or ordinance adopted by the Council.

\* \* \*

## **2-140. Powers, duties and functions.**

\* \* \*

(b) The Office may act as an administrative office or agency designated by the District Council, as prescribed in [the Regional District Act (Article 28 of the Maryland Code)] Division II of the Land Use Article of the Maryland Code.

\* \* \*

## **19-21. Definitions.**

In this Article, the following words and phrases have the following meanings unless the context indicates otherwise:

\* \* \*

*Administrative waiver:* A decision by the Department to allow the construction of a development to be governed by the County stormwater management law in effect as of May 4, 2009. An administrative waiver is distinct from a waiver granted under Section [19-25] 19-24.

\* \* \*

## **19-22. Watershed management plans.**

\* \* \*

(b) The Board should prepare functional master plans under [Article 28] Division II of the Land Use Article of the Maryland Code to preserve, conserve, and manage natural resources in each of the County's



watersheds for the County Council's review and approval. Each functional master plan should address land use, impervious impact on streams and waterways, stream buffers, wildlife and stream habitat, forest preservation, and other issues related to the permitting of stormwater management facilities and the development of watershed management plans

**19A-17. Who must file a financial disclosure statement.**

(a) The following persons must file a public financial disclosure statement under oath:

\* \* \*

(2) the following public employees:

(A) Chief Administrative Officer and any Deputy Chief Administrative Officer;

(B) special assistants to the County Executive;

(C) director and deputy director of each department, principal office, and office in the County government;

(D) any [[employee in]] officer holding a position designated by law as a non-merit position;

[(D)] (E) members of the County Board of Appeals;

[(E)] (F) members of the Commission; and

[(F)] (G) members of the Merit System Protection Board;

\* \* \*

**19A-32. Removal for failure to file financial disclosure statement.**

(a) If a public employee does not file a complete financial disclosure statement when required to under Section 19A-18, the Chief Administrative Officer (for employees in the Executive [branch] Branch) or the [County] Council [staff director] Administrator (for

employees in the [legislative branch] Legislative Branch) may remove the employee from employment with a County agency or from membership on a board, commission or similar body, paid or unpaid. Before an employee is removed for failing to file a financial disclosure statement, the County Attorney must give the employee 30 days notice of the proposed removal. The Chief Administrative Officer and the Council [staff director] Administrator must not remove an employee if the employee files the required financial disclosure statement within the time specified in the notice. This Section does not apply to an elected public employee.

\* \* \*

### **20-32. Legislative purpose.**

- (a) Under the authority of [[Article 44A]] Title 16 of the Housing and Community Development Article of the Maryland Code, Montgomery County, may, at any time and from time to time, guarantee, upon its full faith and credit, revenue bonds of the Housing Opportunities Commission in a total amount not exceeding \$50,000,000 to finance the acquisition, provision, development, or rehabilitation of housing at rental rates and prices not being offered in adequate quantity by the private sector, or to finance in whole or in part mortgage loans secured by such housing, and to fund related reserves and costs approved under Title 16 of the Housing and Community Development Article [44A] of the Maryland Code and this Chapter.

\* \* \*

### **22-3. Construction and scope of chapter.**

\* \* \*

- (e) This Chapter does not render any other applicable law or regulation

invalid. If a conflict arises between this Chapter and another law or regulation, the fire marshal and the head of the agency responsible for enforcing the conflicting law or regulation must agree which applies. If they cannot agree, any remaining conflict must be referred to the Fire Chief. The decision of the Fire Chief in any matter relating to fire safety is final. [However, any person aggrieved by the decision may appeal to the County Board of Appeals under Chapter 2.] Within 30 days after any remaining conflict has been resolved, the Fire Chief and the head of the agency responsible for enforcing the conflicting law or regulation must forward to the County Executive a joint proposal to amend a law or regulation to eliminate the conflict.

**22-37. Regulating fire extinguisher service.**

The Fire Chief must:

\* \* \*

[(4)] (d) [To] issue certificates of registration for those firms that qualify under these regulations to engage in the business of servicing portable fire extinguishers, and issue licenses, apprentice permits, and authority to perform hydrostatic testing to the qualified persons.

**22A-3. Definitions.**

In this Chapter, the following terms have the meanings indicated:

\* \* \*

*District Council* means the County Council in its capacity, under [Article 28] Division II of the Land Use Article of the Maryland Code, to act on planning [the] and zoning [matters] for the Maryland-Washington Regional District.

\* \* \*

*Mandatory referral* means the required review by the Planning Board of projects or activities to be undertaken by [governmental] government agencies and

private and public utilities under Section [7-112 of Article 28] 20-301 of the Land Use Article of the Maryland Code.

\* \* \*

**24A-9. Demolition by neglect.**

In [the event of] a case of demolition by neglect of an historic resource on public or private property, the following provisions shall apply:

\* \* \*

(b) If the historic resource is listed in the "Locational Atlas and Index of Historic Sites in Montgomery County, Maryland," or the microfilmed addenda to [such] that atlas, published by the Maryland-National Capital Park and Planning Commission, the Director shall advise the Planning Board which, after receiving the recommendation of the Commission, shall conduct a public hearing to determine whether the historic resource will be designated as an historic site or historic district in the master plan for historic preservation.

\* \* \*

(2) Where the Planning Board determines that the historic resource in all likelihood will be included in the master plan for historic preservation, the Planning Board shall initiate an amendment to the master plan for historic preservation [pursuant to the provisions of article 28] under Division II of the Land Use Article of the [Annotated Code of] Maryland Code.

\* \* \*

**29-47. Commission action when violation found.**

\* \* \*

(b) If the Commission or panel finds that a landlord has caused a defective tenancy, it may award each party to the complaint one or

more of the following remedies:

\* \* \*

(3) An award under Section [29-10(c)] 29-10(b) of up to three times the amount of any security deposit that the landlord has wrongfully withheld. When making this award, the Commission must consider the egregiousness of the landlord's conduct in wrongfully withholding all or part of the deposit, whether the landlord acted in good faith, and any prior history by the landlord of wrongful withholding of security deposits;

\* \* \*

### **33-35. Definitions.**

In this Article, the following words and phrases have the following meanings:

\* \* \*

*Regular earnings:* Except as otherwise provided, gross pay for actual hours worked, including paid leave, but not including overtime. To calculate regular earnings, for FY10 only, a Group A, E, or H member who is employed on July 1, 2009 and participates in the integrated or optional plan must include amounts as if the member had received an increase of 4.5% in the member's gross pay as of July 1, 2009, except for the purpose of calculating a member's contribution under Section 33-39. To calculate regular earnings, for FY10 only, for a Group F member who is employed on July 1, 2009 and participates in the integrated or optional plan must include amounts as if the member had received an increase of 4.25% in the member's gross pay as of July 1, 2009, except for the purpose of calculating a member's contribution under Section 33-39. To calculate regular earnings, for FY10 only, for a Group G member who is employed on July 1, 2009 and participates in the integrated or optional plan must include amounts as if the

member had received an increase of 4% in the member's gross pay as of July 1, 2009, except for the purpose of calculating a member's contribution under Section 33-39. If a member is required to take any furlough, as defined in personnel regulations adopted under Section 33-7(b), or a collective bargaining agreement, regular earnings must include any amount the member would have received if the member had not been required to take any furlough. Regular earnings for an elected official is gross pay for services rendered to the County. Regular earnings must not exceed the limit under Internal Revenue Code Section 401(a)(17), as adjusted by the Internal Revenue Service. For a member who first became a member in this retirement system before July 1, 1996, the limits in effect before July 1, 1993, and as adjusted by the Internal Revenue Service, shall continue to apply. Gross pay must be used to determine benefits even if the County implements a pick-up plan under Section 414 of the Internal Revenue Code. Gross pay must be used to determine benefits even if a member has agreed to a reduction in earnings under:

- (a) The County's deferred compensation plan under Section 457 of the Internal Revenue Code; or
- (b) Any statutory fringe benefit program sponsored by the County and permitted by the Internal Revenue Code.

\* \* \*

### **33-37. Membership requirements and membership groups.**

\* \* \*

- (f) *Membership groups and eligibility.* Any full-time or part-time employee is eligible for membership in the appropriate membership group if the employee meets all of the requirements for the group:

\* \* \*

(4) Group E: The Chief Administrative Officer, the Council [Staff Director] Administrator, the hearing examiners, the County Attorney and each head of a principal department or office of the County government, if appointed to that position before July 30, 1978, or a member having held that position on or before October 1, 1972. Any sworn deputy sheriff and any County correctional staff or officer as designated by the chief administrative officer. Any group E member who has reached elective early retirement date may retain membership in group E if the member transfers from the position which qualified the member for group E. Any group E member who is temporarily transferred from the position which qualified the member for group E may retain membership in group E as long as the temporary transfer from the group E position does not exceed 3 years. Notwithstanding the foregoing provisions in group E, any employee who is eligible for membership in group E must participate in the guaranteed retirement income plan or the retirement savings plan under Article VIII if the employee:

\* \* \*

(k) *Election to join the guaranteed retirement income plan.*

[(5)] (6) An individual who is an elected official after December 6, 2010 who participates in the elected officials' plan may make a one-time irrevocable decision to terminate participation in the elected officials' plan and participate in the guaranteed retirement income plan. An elected official must make this decision during the first 150 days after becoming an elected official. If an eligible elected official decides to participate,

participation must begin on the first pay period after the elected official has been in office for 180 days. An elected official who decides to participate must have his or her elected officials' plan account balance transferred to the guaranteed retirement income plan. The amount transferred into the guaranteed retirement income plan must become the participant's initial guaranteed retirement income plan account balance. An elected official who does not participate in the guaranteed retirement income plan must continue to participate in the elected officials' plan.

**33-42. Amount of pension at normal retirement date or early retirement date.**

\* \* \*

(i) *Retirement incentive Program.*

\* \* \*

(5) *Approval.* The Chief Administrative Officer must approve a request to participate in the program from a member employed in the Executive Branch. The Council [Staff Director] Administrator must approve a request to participate in the program from a member employed in the Legislative Branch. If more than 20% of members eligible to participate in the Executive Branch, either Countywide or by department, apply to participate in the program, the Chief Administrative Officer may limit the number of participants, either on a Countywide or department basis. If more than 20% of members eligible to participate in the Legislative Branch apply to participate in the program, the Council [Staff Director] Administrator may limit the number of participants. The Chief Administrative Officer



and the Council [Staff Director] Administrator must base any limits on the number of participants on years of service with the County. Years of service with the County must not include service with a participating agency, purchased service, or sick leave.

**33-42A. 2010 Retirement Incentive Program.**

\* \* \*

- (g) *Approval.* The Chief Administrative Officer must approve a request to participate in the program from a member employed in the Executive Branch. The Council [Staff Director] Administrator must approve a request to participate from a member employed in the Legislative Branch. The Chief Administrative Officer and the Council [Staff Director] Administrator must not approve more applications from an affected class than the number of positions that are abolished in the affected class. The Chief Administrative Officer and the Council [Staff Director] Administrator may disapprove an application if a vacancy created by a member participating in the program cannot be filled by a member of an affected class. If more members apply to participate in the program than the number of positions abolished, the participants must be approved in order of County seniority calculated under the RIF personnel regulation in the following order:

\* \* \*

**33-59. Board of investment trustees.**

\* \* \*

- (b) *Membership.*

\* \* \*

(2) The County Executive must appoint 4 voting, ex officio members of the Board, subject to County Council confirmation as members, who serve indefinitely while each holds the respective office. These ex officio trustees should be:

\* \* \*

(D) the [Staff Director of the County] Council Administrator.

### 33-120. Distribution of Benefit.

\* \* \*

(g) Direct rollover distributions. Notwithstanding any provision of this Division that would otherwise limit a participant's election under this Section, a participant or beneficiary may elect in any manner prescribed by the Chief Administrative Officer at any time to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the participant in a direct rollover. As used in this subsection:

(1) [a] direct rollover means a payment from the retirement savings plan to the eligible retirement plan specified by the participant.

\* \* \*

### 33-128. Definitions.

\* \* \*

Residual functional capacity means what the individual can still do, despite the individual's impairment. The County must give the term residual functional capacity the same meaning as the term is given by the Social Security Administration.

Substantial gainful activity means a level of productive work that requires significant physical or mental duties, or a combination of both, performed for pay or profit on a full- time or part-time basis. An individual is able to

perform a substantial level of work if the individual is able to earn more than the Social Security Administration's current monthly earnings limit for a disabled person. The County must give the term substantial gainful activity the same meaning as the term is given by the Social Security Administration.

\* \* \*

**42-28. Projects subject to planning, subdivision, and zoning laws.**

Construction of any project by the Authority is subject to County planning, subdivision, and zoning laws and regulations and those of any planning commission with jurisdiction over the facility or project to the same extent as those laws and regulations apply to a project owned and built by a government agency. The Authority must refer each project that it intends to build to the County Planning Board for its review and comment, as required by Section [7-112] 20-301, et. seq., of [Article 28] the Land Use Article of the Maryland Code, before the Authority includes the project in its capital budget under Section 42-13.

**44-3. Interagency Coordinating Board.**

\* \* \*

(b) *Membership.* The Board consists of voting members and nonvoting, ex officio members.

(1) The voting members are:

\* \* \*

(E) a Councilmember or the [staff director] Council Administrator or a senior staff member of the County Council, who represents the Council;

\* \* \*

**49-33. Road construction requirements.**

\* \* \*

(k) *Ground cover.*

(1) A property owner may plant and maintain ground cover in a public right-of-way adjacent to the owner's property if the owner:

(A) complies with [regulations] guidelines issued under paragraph (3);

\* \* \*

# **51-1. Definitions.**

\* \* \*

*Lifeguard* means a person who:

[(1)] (a) is at least 15 years old; and

[(2)] (b) has a valid lifeguard certificate from the American Red Cross, the Young Men's Christian Association, or a comparable program approved by the Director of the Department of Health and Human Services.

\* \* \*

*Pool management company* means any person, cooperative, association, partnership, firm, or corporation, excluding a pool operator, who is responsible by contract or other agreement with the owner of a public swimming pool for the operation of the public swimming pool, including:

[(1)] (a) assuring compliance with all operating standards [set forth] in this Chapter and all [rules and] applicable regulations [promulgated hereunder];

[(2)] (b) providing for the physical maintenance, supplies, and personnel as required by this Chapter and all [rules and] applicable regulations [promulgated hereunder]; and

[(3)] (c) obtaining all necessary permits and licenses.

\* \* \*

*Private spa* means any outdoor bathing structure that is:

- [(1)] (a) a self-contained unit in which all control, water heating, and water circulating equipment is an integral part of the unit;
- [(2)] (b) built on the grounds of a single-family private residence;
- [(3)] (c) used solely by the owner, immediate family, tenants, and guests; and
- [(4)] (d) not used for swimming, diving, or wading.

*Private swimming pool* means any swimming pool that is:

- [(1)] (a) built on the grounds of a single-family private residence; and
- [(2)] (b) used solely by the owner, immediate family, tenants, and guests.

*Public spa* means any public swimming pool that is:

- [(1)] (a) intended for public recreational and therapeutic uses other than swimming, diving, or wading; and
- [(2)] (b) is not drained, cleaned, or refilled for each user.

\* \* \*

#### **51-16A. Defibrillators**

- [(d)] (c) \* \* \*
- [(e)] (d) \* \* \*

#### **52-11A. Homeowners property tax credit.**

(a) *Definitions.* In this section, the following words have the meanings indicated.

- (1) The following words have the meanings defined in Section 9-104 of the Tax-Property Article of the Maryland Code:

\* \* \*

#### **52-18Q. Property tax credit -energy and environmental design.**

\* \* \*

- (d) Amount of credit

(1) For a covered building, the amount of the credit is:

\* \* \*

(C) 10% of the property tax owed on the building for 3 years,  
if the building achieves a gold rating for LEED-EB or an  
equivalent standard; [and] or

\* \* \*

**52-21. Levied; amount.**

There is hereby levied a tax on (1) all transfers in the county of a fee simple interest in real property, except by way of mortgage, deed of trust or deed of trust for the benefit of creditors, (2) the initial transfer of stock or other evidence of ownership in a cooperative housing corporation or similar entity, and (3) all transfers of a leasehold interest in real property where the lease or instrument by which a leasehold interest is demised contains a covenant for perpetual renewal, known as ground rent. The tax shall be computed on the value of the full consideration for such transfer at the following rates:

\* \* \*

(f) On condominium property, four (4) percent of the value of the consideration for the initial transfer of a residential unit subject to a condominium regime, which unit was offered for rent for residential purposes prior to the establishment of the condominium regime.

\* \* \*

(2) No transfer of any interest in real property shall be taxed under this subsection where:

[a.] (A) \* \* \*

[b.] (B) The transfer is of a unit in a condominium regime established by recording a declaration, bylaws and condominium plat, [prior to] before July 28, 1980,

[pursuant to the provisions and requirements of the Horizontal Property] under the Maryland Condominium Act, [title] Title 11[,] of the Real Property Article[,] of the Maryland Code [Annotated]. For purposes of this subsection, residential units contained in an expanding condominium regime established by recording a declaration, bylaws and condominium plat [prior to] before July 28, 1980, but not added to the established condominium regime by [said] that date, shall continue to be exempt from taxation under this subsection [provided] if the unit becomes a condominium unit in an established condominium regime by the last date for establishment of units in the expanded condominium as contained in the declaration filed [prior to] before July 28, 1980, either as a part of the original expanding condominium or as a part of a separate condominium.

- (g) \* \* \*
- (2) \* \* \*
- [a.] (A) \* \* \*
- [b.] (B) \* \* \*
- [c.] (C) \* \* \*

**52-53. Restrictions on use and accounting of development impact tax funds.**

- (a) The funds collected by the development impact tax must be used solely to fund County or municipal transportation improvements of the types listed in Section 52-58 located anywhere in the County, except as provided in subsections (c)[,] and (h)[, and (i)]. In appropriating funds collected by the development impact tax, the

Council should, to the extent feasible, designate funds to be used for transportation improvements in the policy area from which the funds were collected or an adjacent policy area.

\* \* \*

**Sec. 2. Section 3 of Chapter 4 of the 1992 Laws of Montgomery County is amended as follows:**

**Sec. 3. Contingency on Commission resolution.**

Until express authority for Planning Board administration and enforcement of Article II, as enacted in Section 1 of this Act, is provided under State law, this Act is contingent on and does not become effective until the Maryland-National Capital Park and Planning Commission adopts a resolution under Section [7-111(f) of Article 28] 20-207 of the Land Use Article of the Maryland Code allocating the functions provided under this Act to the Montgomery County Planning Board.

**Sec. 3. Section 2 of Chapter 1 of the 2011 Laws of Montgomery County is amended as follows:**

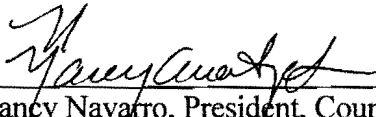
**Sec. 2.** The Council declares that this Act is necessary for the immediate protection of the public interest. This Act takes effect on [the date when it becomes law] December 1, 2010, and applies to any development located in the White Flint impact tax district for which a building permit is issued on or after December 1, 2010. If any development impact tax was collected under Article VII of County Code Chapter 52 before this Act took effect for any development to which this Act applies, the Director of Finance must promptly refund that tax as if a refund were due and claimed under County Code Section 52-54.



593 *Approved:*

594

595



2/11/13

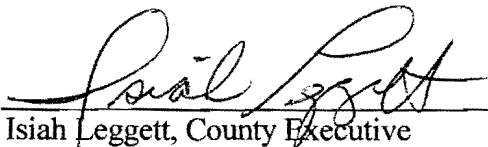
596 Nancy Navarro, President, County Council

Date

597 *Approved:*

598

599



2/12/13

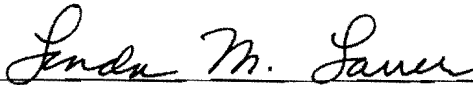
600 Isiah Leggett, County Executive

Date

601 *This is a correct copy of Council action.*

602

603



2/13/13

604 Linda M. Lauer, Clerk of the Council

Date